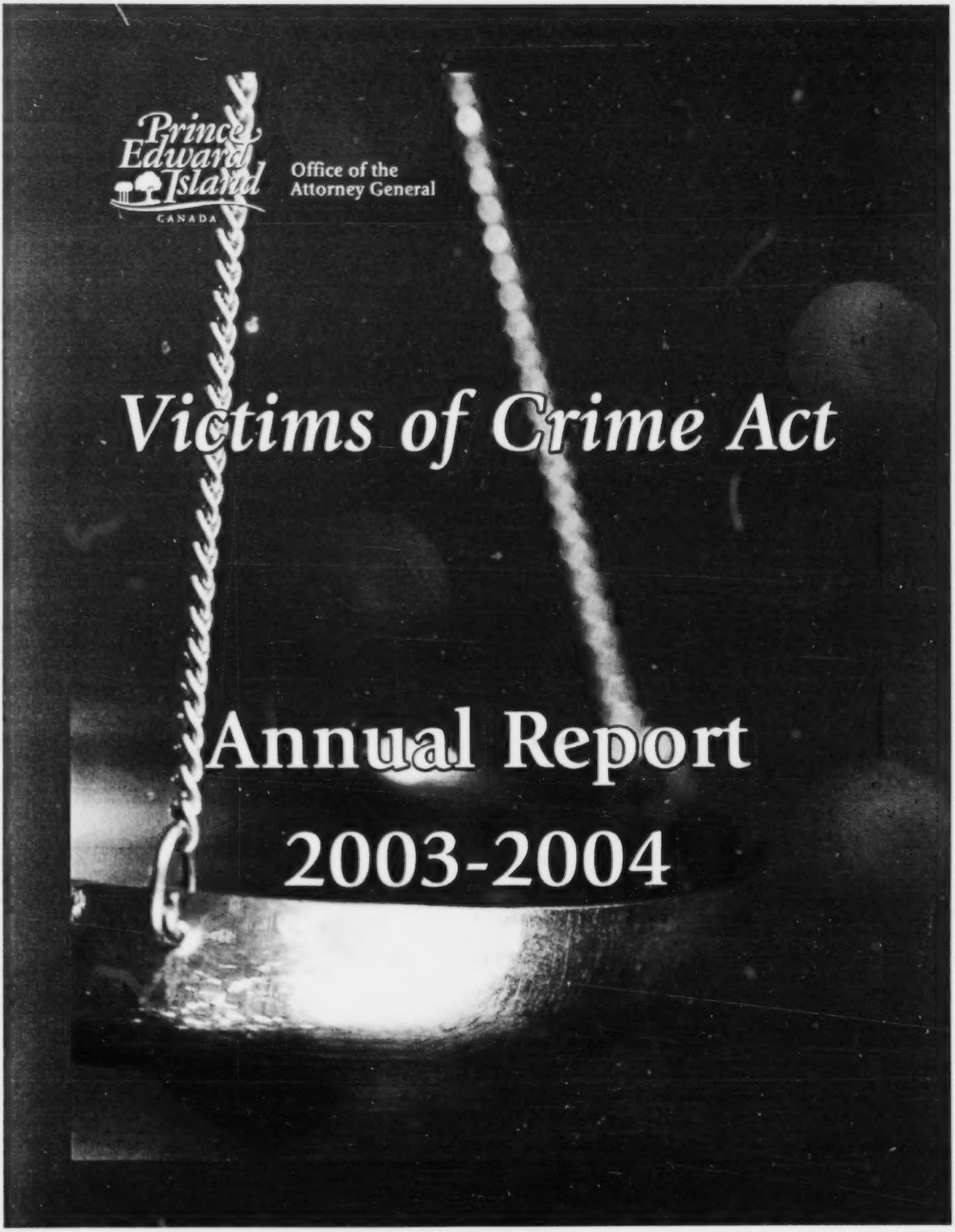
Prince Edward Island
CANADA
Office of the Attorney General
Victims of Crime Act
Annual Report
2003-2004

Fifteenth Annual Report

Victims of Crime Act
R.S.P.E.I. 1988, Cap. V-3.1

April 1, 2003 to March 31, 2004

Prince Edward Island Office of the Attorney General
PO Box 2000
Charlottetown, PE C1A 7N8

105-06175/

November 2004

The Honourable J. Léonce Bernard
Lieutenant Governor
Province of Prince Edward Island

May it Please Your Honour:

I have the honour to submit the Fifteenth Annual Report of the administration of the *Victims of Crime Act*, R.S.P.E.I. 1988, Cap. V-3.1 pursuant to Section 36 of the act, for the fiscal year ended March 31, 2004.

During the period covered by this report, Jamie Ballem served as Attorney General.

Respectfully submitted,

Mildred A. Dover

Mildred Dover
Attorney General

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Part I

Introduction

The *Victims of Crime Act*, R.S.P.E.I. 1988, Cap.V-3.1 was proclaimed in force September 30, 1989. Regulations and orders under the act also came into force on that date. Extensive amendments to the act came into effect August 7, 1999. These amendments included the addition of principles (h) and (i) listed below.

The Statement of Principles contained in Part I of the *Victims of Crime Act* sets out the following principles for the guidance of persons in providing justice for victims of crime:

(a) Victims should be treated with courtesy and compassion and with respect for their dignity, privacy and convenience.

(b) Victims should receive prompt and fair financial redress for the harm they have suffered.

(c) Victims should be informed of and should have access to services including social, medical, legal and mental health assistance.

(d) Victims should be informed about the progress of the investigation and prosecution of the offence, court procedures, the role of the victim in court proceedings and the ultimate disposition of the proceedings.

(e) Victims are entitled, where their personal interests are affected, to have their views and concerns brought to the attention of the court where consistent with criminal law and procedure.

(f) Victims and their families should be protected from intimidation, retaliation and harassment.

(g) Victims should have their stolen property returned to them as soon as possible after recovery by law enforcement authorities.

(h) Victims are entitled to prepare a victim impact statement and have it considered by the court at sentencing.

(i) Victims are entitled to be informed about the offender's status, including release dates, parole eligibility and probation terms.

The other parts of the *Victims of Crime Act* include Victim Services, Victim Assistance Fund, Criminal Injuries Compensation and General.

Part II

Report of the Victim Services Advisory Committee

Committee Mandate and Terms of Reference

The Victim Services Advisory Committee is established under Part II of the *Victims of Crime Act*. Section 4, as amended effective August 7, 1999, states the committee's mandate as follows:

The committee shall:

(a) review existing laws, policies and procedures and recommend changes to benefit victims;

(b) assist law enforcement agencies, social agencies and other organizations with the development of guidelines that promote the principles set out in this act relating to their role in respect of victims;

(c) assist with establishing and updating procedures for the handling of complaints by victims;

(d) assist with the research, development and distribution of information pertaining to the needs, rights and concerns of victims;

(e) provide opportunities for research, discussion and resolution of issues of concern to victims; and

(f) advise on other matters that the minister may refer to the committee for consideration.

In the performance of its functions, the committee is guided by and shall promote the principles set out in Section 2 (The Statement of Principles).

The committee may make recommendations to the minister relating to:

(a) the development of policies and legislation respecting assistance to victims;

(b) the provision of services, including criminal injuries compensation, to victims; and

(c) any other matters that the minister refers to the committee for its recommendation.

The *Victims of Crime Act* also provides the following terms of reference for the Victim Services Advisory Committee:

- The committee shall make an annual report to the minister on the activities of the committee.
- The committee shall consist of not less than nine and not more than 15 members appointed by the minister.
- The committee shall include representatives of Crown Attorneys, court clerks, probation services, law enforcement agencies, the Law Society of Prince Edward Island, community organizations and the general public.

- Committee members shall not receive remuneration for their services but may receive reimbursement from the fund of reasonable expenses incurred on behalf of the committee.
- The minister shall provide executive, secretarial and any other assistance the minister considers necessary to enable the committee to carry out its functions.
- Each member shall be appointed to the committee for a term of not more than three years and may be appointed for a second term.

Committee Membership and Meetings

Members of the Victim Services Advisory Committee as of March 31, 2004, and the organizations they represent are as follows:

Ann Sherman	Community Legal Information Association
Heidi Rankin	Advisory Council on the Status of Women
Thane MacEachern	Law Society of Prince Edward Island
Lisa Goulden	Crown Attorneys
Janet Marshall	Rape and Sexual Assault Crisis Centre
Bob Albert	Community Programs, Office of Attorney General
Orlo Jones	Senior Citizens Federation of Prince Edward Island
Chief Paul Smith	Charlottetown Police Department
Agdas Missaghian	Newcomers to Canada Association
Ellen Ridgeway	Transition House Association
Sgt. Richard Thibault	RCMP "L" Division
Judy Turpin	Court Clerks
Wanda Whitlock	Department of Education
Clair Dunsford	Greater Charlottetown Chamber of Commerce

The committee is assisted in its operations by the Provincial Manager and Secretary of Victim Services. The Policy Advisor, Office of Attorney General, and the Adjudicator from the Legal Services Division also provide assistance and information to the committee.

During the 2003/2004 fiscal year, the Victim Services Advisory Committee held quarterly meetings in June, September, December and March. Ann Sherman and Heidi Rankin co-chaired the committee. The activities of the committee during 2003/2004 included the following:

Joint Project With PEI Rape and Sexual Assault Crisis Centre

The PEI Rape and Sexual Assault Crisis Centre, in partnership with the Victim Services Advisory Committee, was successful in receiving funding for a study on *Survivors of Violence – Memory of Trauma and its Implications for the Criminal Justice System*. Research has demonstrated that survivors of trauma may store memories of the trauma differently than other life events. The goal of the project is to develop knowledge and strategies for the criminal justice system to better support survivors of violence.

Study of Rest[illegible] and Victim Fi[illegible]ge

Obtaining r[illegible]victims of crime was identif[illegible]n Services Advisory Co[illegible]rea requiring further study.[illegible]tee initiated research with r[illegible]estitution practices and trends, amou[illegible] of restitution ordered and collected, as well as similar information on victim fine surcharges. When compiled, this information will be used to assist in identifying collection issues and policy gaps.

Enforcement of Restitution Orders

The committee is monitoring proposed legislative changes related to enforcement of restitution orders, and will develop, in conjunction with Community Legal Information Association, a user friendly brochure to provide information for victims on avenues to recover restitution.

Client Satisfaction Survey

The Victim Services Advisory Committee is in the early stages of developing a sustainable method of monitoring client satisfaction with respect to their involvement in the criminal justice system.

Recommendations to the Minister

The Victim Services Advisory Committee made recommendations to the minister related to:

- the need for improved access to family legal aid in the province; and
- support for a new location for Community Legal Information Association which would improve public access to the services.

Guest Speakers

The committee invited guest speakers on a number of topics.

- Maureen McIver, Provincial Addictions Consultant, Department of Health and Social Services, provided an overview of the provincial and regional addictions treatment programs.
- David O'Brien, Crown Attorney, presented on the *Report on Sentencing for Manslaughter in Cases Involving Intimate Relationships*.

- Patricia MacAulay and Kirstin Lund, researchers with the project *Survivors of Violence – Memory of Trauma and Its Implications for the Criminal Justice System* provided information and updates on the status of this joint project with the PEI Rape and Sexual Assault Crisis Centre.
- Ellie Reddin gave an overview of the *Final Report of the Ad Hoc Federal/Provincial/ Territorial Working Group Reviewing Spousal Abuse Policies and Legislation.*

Information Items

A number of information items were brought to the attention of the Victim Services Advisory Committee during the year. Some of these included:

- Reports from meetings of the F/P/T Ministers of Justice, the F/P/T working group on Victims of Crime, and the National Victims of Crime Conference;
- Canadian Statement of Basic Principles for Victims of Crime, 2003 which modernizes the statement of principles issued in 1988.
- Updates on the work of the Attorney General's Working Group Reviewing Spousal Abuse Reports.
- Review of statistics on spousal abuse cases being referred to Alternative Measures.
- Tracking of family violence cases through the court system.
- Criminal harassment provisions in the Criminal Code.
- Proposed amendments to the *Divorce Act* and the implications for victims of family violence.
- Amendment to the *Victims of Family Violence Act* and Regulations and associated training for victim service workers, police and other justice personnel.
- Status of various amendments to federal legislation which have implications for victims and witnesses.
- Family Law Information Program Development Project.
- Establishment of the Hon. H.R. McQuaid Family Law Centre.
- Victim Services caseload trends and updates related to Criminal Injuries Compensation.

Respectfully submitted,

Ann Sherman, Co-chair

Heidi Rankin, Co-chair

Part III

Report of the Victim Services Program

Victim Services has provided a criminal justice system-based service to victims of crime province-wide since April 1989. The system-based approach was developed on Prince Edward Island and has been adopted by several other provinces/territories. The key attributes of a system-based Victim Services program are that it:

- operates within the criminal justice system, but independently from the police, Crown attorneys or the courts;
- is client-centred;
- maintains close working relationships with criminal justice personnel and community agencies;
- assists victims of crime at all stages of the criminal justice process;
- uses an outreach approach.

Mandate

Section 7 of the *Victims of Crime Act* (amended effective August 7, 1999) states that the purpose of Victim Services is:

a) to assist victims as needed throughout their contacts with the criminal justice system;

b) to help victims to access other needed services;

c) to receive applications for criminal injuries compensation and investigate claims on behalf of the minister;

d) to assist with the preparation and filing of victim impact statements;

e) to assist justice personnel and community agencies in providing services to victims;

f) to promote the Statement of Principles set out in Section 2.

Mission Statement

Victim Services provides a client-centred service for victims of crime, ensuring respect for their dignity and privacy. Victim Services assists clients throughout their involvement with the criminal justice process.

Vision Statement

Victims Services' vision is that:

- all victims of crime on Prince Edward Island who require assistance through the criminal justice process will be referred at the earliest opportunity to Victim Services; and
- the response of all criminal justice personnel will be guided by the Statement of Principles in the *Victims of Crime Act.*

Values

The Statement of Principles in the *Victims of Crime Act*, listed in Part I of this Annual Report, provides the value base for Victim Services.

Goals

Victim Services goals are:

- to provide prompt, effective assistance to victims of crime, especially victims of crimes against the person, but not excluding any victim who needs assistance through the criminal justice process;
- to tailor the assistance provided to meet the needs of the particular client;
- to provide services to any victim of crime requiring assistance, regardless of their geographic location on Prince Edward Island;
- to investigate criminal injuries compensation claims and complete the case analysis for each claim as quickly as possible;
- by working collaboratively with the police and Crown attorneys, to ensure that all victims of crimes in which charges are laid are informed of their right to prepare and file a victim impact statement;
- to ensure that victims understand the implications of preparing and filing a victim impact statement and do so voluntarily; and
- to promote the use of the *Victims of Family Violence Act* in appropriate cases.

Victim Services uses an outreach approach to inform victims about the available services, rather than leaving it to victims of crime to find out about the service at the time they need it. Most referrals to Victim Services come from municipal police and RCMP across the province and Victim Services staff follow up from the initial police response to victims of crime. In some cases, victims contact Victim Services prior to reporting to the police. Victim Services staff make ongoing efforts to inform police about the services available through Victim Services and to encourage early referrals.

Statistical Overview

Once a referral is received, Victim Services' staff contact victims at the earliest opportunity by telephone, letter or in person. Assistance provided to victims of crime includes:

- information about case status, the criminal justice system, and court procedures;
- emotional support and short-term counselling;
- referrals for legal, financial and long-term counselling services;

- assistance through the court process and with preparation of victim impact statements;
- investigation of applications for criminal injuries compensation; and
- assistance under the *Victims of Family Violence Act*.

Victim Services cases are categorized in the following classifications: general, sexual abuse, wife abuse, other family abuse and commercial/institutional. The percentage breakdown of new cases by case classification in 2003/2004, and a comparison with the previous year, are noted as follows:

Victim Services New Cases

	Per Cent Breakdown	
Type of Client	**2002/03**	**2003/04**
General*	47	54
Wife Abuse	29	27
Sexual Abuse	11	9
Other Family Abuse	8	8
Commercial/Industrial	5	2

** General includes break and enter, damage to property, theft, general assaults, etc.*

The following table illustrates the total and percentage of each type of case opened in 2003/2004. The table also indicates the police agency involved with each case.

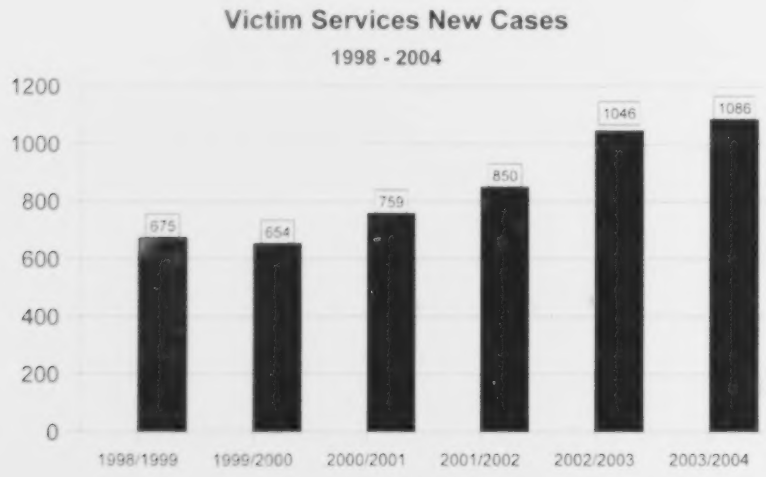
Table I

Victim Case Classification: New Cases
2003/2004

Police Jurisdiction	General	Sexual Abuse	Wife Abuse	Other Family Abuse	Commercial/ Institutional	Total
Alberton RCMP	43	2	32	6	8	91
Borden PD	0	0	0	0	0	0
Charlottetown PD	224	35	83	16	2	360
Charlottetown RCMP	143	27	63	22	0	255
Kensington PD	1	0	0	1	0	2
Montague RCMP	49	15	31	7	0	102
Summerside RCMP	39	2	16	8	0	65
Summerside PD	58	5	54	12	9	138
Souris RCMP	30	6	16	12	0	64
Out of Province/Other	1	3	4	1	0	9
Grand Totals	**587**	**96**	**299**	**84**	**20**	**1,086**
Percentile	**54**	**9**	**27**	**8**	**2**	**100**

Caseload Trends

Victim Services' caseload has increased dramatically in all areas of the province in the past several years. Prior to 2000/2001, the annual number of new cases was usually in the 600 to 700 range, in addition to those carried forward from one year to the next. In the past several years, as illustrated in the graph below, significant increases have occurred in the annual number of new cases, with a 66 per cent increase since 1999/2000. In 2003/2004, there were 1,086 new cases, in addition to approximately 559 cases carried forward from the previous year.



Amendments to Criminal Code

Increased client demand can be accounted for, in part, by Section 722.2(1) of the *Criminal Code*, which came into effect December 1, 1999, as part of an act to amend the *Criminal Code* (Bill C-79). Section 722.2(1) states that the court shall inquire whether the victim has had an opportunity to prepare a victim impact statement. Because of this amendment, the police have been routinely informing victims of their right to prepare a victim impact statement and have been making more referrals to Victim Services.

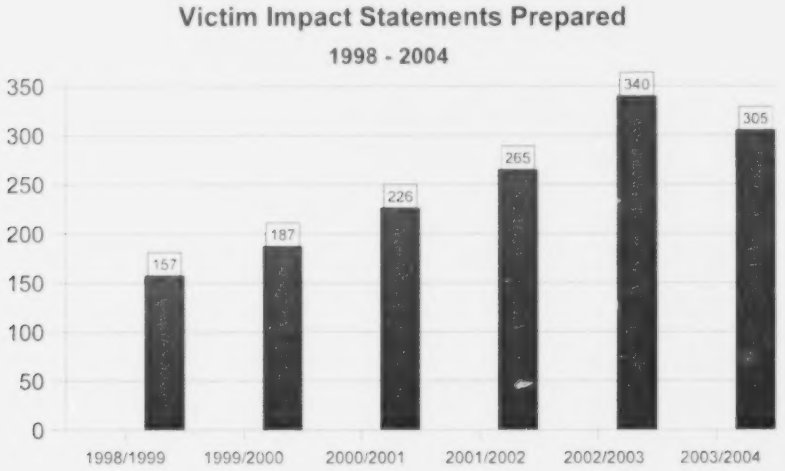
Increasing Rate of Reported Crime

In addition, the increases may reflect a higher rate of reported crimes in Prince Edward Island. In 2002, PEI reported the largest increase in overall crime rate in Canada, up 12 per cent from the previous year, including a 15 per cent increase in violent crime and an eight per cent increase in property crime. In 2003, the crime rate in PEI increased an additional 9.8 per cent over the previous year, including a 1.2 per cent increase in violent crime and a nine per cent increase in property crime.

Over the past 10 years, PEI's rate of reported crime has increased by seven per cent overall. PEI has the highest rate of reported crime of Canada's eastern provinces.

Victim Impact Statements

Since 1989, Victim Services has been designated by Lieutenant Governor in Council as the program responsible for preparing and filing victim impact statements. Victim impact statements outline the physical, emotional and financial effects of the crime on the victim. After determination of guilt, the judge takes victim impact statements into consideration when deciding on sentence. In 2003/2004, 305 victim impact statements were prepared and filed with the court. Since 1998/1999, there has been a 94 per cent increase in the number of victim impact statements prepared, as illustrated in the graph below. This trend of increasing numbers of victim impact statements can be explained in part by the amendment to Section 722.2(1) of the *Criminal Code* mentioned earlier, as well as an increase in reported crime in PEI in recent years.



Offence Type and Offender Information

Assaults, including all levels of assault from common assault to aggravated assault, continue to be the most frequent type of crime in Victim Services' cases, representing 37 per cent of the new cases in 2003/2004. The next most frequent types of crime for Victim Services cases were: thefts (13 per cent), sexual assaults (nine per cent), break and enter (eight per cent) and uttering threats (eight per cent).

In 337 cases, there was a family type relationship between the victim and the suspect or offender. In 292 cases, the suspect or offender was a male partner or ex-partner (either current or former husband, common-law husband or boyfriend).

The proportion of Victim Services clients victimized by adult offenders compared with young offenders has been quite consistent over the years. In 2003/2004, in 88 per cent of Victim Services cases, the offenders were adults.

Age Range and Gender of Victims

Age ranges of Victim Services' new clients were as follows:

under 12 years	3%
12 to 20 years	17%
21 to 40 years	31%
41 to 60 years	13%
61 years and over	3%
unknown/not recorded	33%

Sixty-four per cent of Victim Services' new clients were females.

Criminal Injuries Compensation

Under the *Victims of Crime Act*, Victim Services is responsible for investigating claims for criminal injuries compensation. Victim Services staff also assist victims with preparing their applications and gathering information to support their claims. Victim Services staff prepare a case analysis regarding each claim.

Designated persons within the Legal Services Division of the Office of Attorney General are responsible for adjudicating claims and writing a report, including recommendations, to the Attorney General who makes decisions regarding claims.

In the 2003/2004 fiscal year, 61 new compensation applications were filed, 106 were carried over from the previous year, and 51 decisions were made. One hundred and twenty-three compensation files were carried forward to the next fiscal year.

Further information and statistics regarding criminal injuries compensation are contained in Part IV of this Annual Report.

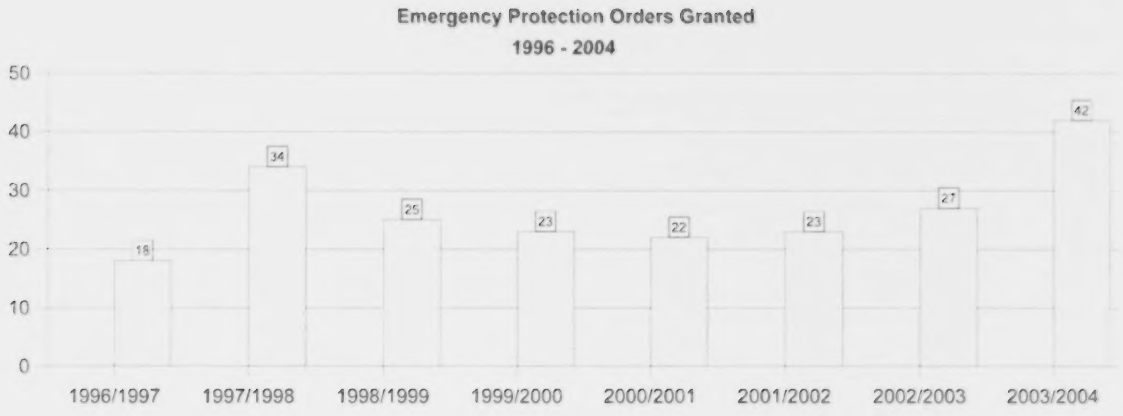
Victims of Family Violence Act

The *Victims of Family Violence Act* came into effect in December 1996. Under this act, Emergency Protection Orders are available 24 hours a day from designated justices of the peace. In non-emergency situations, longer-term Victim Assistance Orders are available by application to the Supreme Court.

Victim Services staff assist with training and ongoing monitoring and promotion of the use of the *Victims of Family Violence Act*. Victim Services staff also provide Information Kits and make referrals for legal assistance for victims needing Victim Assistance Orders. Due to difficulties with obtaining timely legal assistance, very few applications for Victim Assistance Orders have been made.

In 2003/2004, 42 Emergency Protection Orders were granted under the *Victims of Family Violence Act*, an increase of 15 over the previous fiscal year. The 42 Emergency Protection Orders were from seven days to 90 days in duration, with an average length of 49 days. Of the 42 orders granted, two were terminated, one revoked and one varied. Two reviews were held at the request of respondents, and both were confirmed as ordered.

Since the proclamation of the act in December 1996, there have been a total of 214 Emergency Protection Orders granted.



Experience with using the *Victims of Family Violence Act* for five years, together with the results of the Evaluation of the *Victims of Family Violence Act* conducted in 2000/2001, led to some amendments to the act which were passed by the PEI Legislature in May 2002. In November 2003, these amendments were proclaimed and regulations approved.

Key amendments included the following:

- provisions which prevent the respondent from disconnecting utilities or discontinuing rent or mortgage payments when a victim has been awarded exclusive occupation of the residence; and
- clarification of the amounts of penalties that may be charged for offences committed under the act, to send a clear message that breaches of orders are to be taken seriously .

Following proclamation of the amendments to the act, a Steering Committee was established in the fall of 2003 to coordinate refresher training for police, justices of the peace and other service providers. This refresher training was held in spring 2004. The Steering Committee will remain in place on an ongoing basis to assist in monitoring and training related to the act.

Victim Services Program Highlights

Trends in Client Demand

- Client demand in relation to new referrals has increased by almost 60 per cent since 1998/1999, and the average monthly caseload has increased from 442 cases per month to 636 cases per month (44 per cent increase).
- In 2003/2004, Victim Services assisted in the preparation and filing of 305 victim impact statements, an increase of 94 per cent from 1998/1999.
- Since 1998/1999, applications for Criminal Injury Compensation have fluctuated in the range of 20 to 61 applications per year, with an average of 40 applications annually. In 2003/2004, there were 61applications.

Report on 2002/2003 Objectives

- With funding assistance from the Victims of Crime Fund, Policy Centre for Victims Issues and Justice Canada, Victim Services was able to continue the special projects officer position and obtain additional funding for a part-time victim services worker for the western region of the province. Funding for these positions is confirmed until March 2005.
- Amendments to the *Victims of Family Violence Act* were proclaimed and regulations approved. A Steering Committee was established to oversee the administration of the act and facilitate refresher training for police and other justice system personnel.
- Public information materials were updated and work was undertaken to establish a Victim Services Web site to improve access to information for victims.
- In cooperation with the Legal Services Division of the Office of Attorney General, a full-time adjudicator was assigned for three months to address the backlog of criminal injury compensation claims awaiting adjudication.
- Research was initiated in the area of restitution and victim surcharge to examine current levels of ordering, monitoring and enforcement.

Victim Notification Policies

During 2003/2004, in preparation for the implementation of the *Youth Criminal Justice Act*, policies and procedures were developed to enhance victim participation in the criminal justice process. These policies provide a process and guidelines for sharing of information with victims, and consultation with victims regarding offender release planning. Policies related to both adult and youth offenders have been implemented.

Relocation of Charlottetown Victim Services Office

In December 2003, the Charlottetown Victim Services Office relocated to the Hon. C.R. McQuaid Family Law Centre at 1 Harbourside Access Road. The new centre brings the Maintenance Enforcement Office, Child Support Guidelines Office, Recalculation Office, Positive Parenting from Two Homes Program, Family Court Counsellors and Victim Services together in one location.

Committee Participation

An important aspect of the work of Victim Services involves maintaining cooperative

working relationships with other criminal justice and community agencies in order to coordinate case management and effect positive long-term change for victims of crime. Staff participated in committees at various levels involving national, provincial, regional, divisional and community initiatives.

At the Federal/Provincial/Territorial level, the provincial manager participated on the FPT Victims of Crime Working Group.

Victim Services is represented on community and criminal justice based committees involving work in the area of family violence, sexual abuse, cultural and societal issues. These committees include:

- Attorney General's Ad hoc Working Group on Spousal Abuse Reports
- Justice Options for Women who are Victims of Domestic Violence
- Women Abuse Protocols – Justice Working Group
- West Prince Committee on Family Violence
- East Prince Committee on Family Violence
- Provincial Child Sexual Abuse Advisory Committee
- Homophobia Task Force
- Bluefield High School/RCMP Committee (planning for a play on family violence)
- Child Sexual Abuse Coalition – East Prince
- Steering Committee – *Victims of Family Violence Act*

As part of the Community and Correctional Services Division, Victim Services staff were involved in a number of departmental and divisional initiatives including:

- Alternative Measures Policy and Procedures Working Group
- Community and Correctional Services Information System Committee
- *Youth Criminal Justice Act* Interdepartmental Committee
- *Youth Criminal Justice Act* Training Committee
- Victim Interest Policy Committee – *Youth Criminal Justice Act* Implementation
- Divisional Wellness Committee
- Divisional Training Committee
- Female Reintegration Committee
- Staff Recognition Committee
- Occupational Health and Safety Committee

Presentations

During fiscal year 2003-2004, staff made a number of presentations on the work of Victims Services, including:

- Panel presentation – National Victims of Crime Conference
- *Youth Criminal Justice Act* training
- Refresher training on the *Victims of Family Violence Act*
- Participation in a play on Domestic Violence presented to students of Eastern School District
- Presentations on Victim Services to adult protection workers and UPEI classes studying the criminal justice system

Education and Training

Victim Services staff participated in various education and training initiatives including:

- Atlantic Conference on Dispute Resolution and Violence Against Women
- PEI Crime Prevention Atlantic Conference
- Anxiety Disorders in Children and Adolescents
- Prevention of Child Sexual Abuse
- Nature of Trauma
- Workshop on Amendments to the *Divorce Act*
- Overview of the Family Support Orders Program
- Providing Effective Supervision – St. Thomas University Bachelor of Social Work Student Placement Program
- Personal Change and Transition
- Family Law Information Program
- Clinical Services for Youth Conference
- Divisional Wellness Sessions
- CPR/First Aid Certification

Objectives

Objectives for the 2004/2005 fiscal year include the following:

- develop an appropriate organizational structure and secure adequate resources to meet increasing demands for services to victims of crime;
- participate in efforts to create a comprehensive domestic violence response which will assist victims and their children in dealing with the justice system;
- complete research related to ordering and collection of restitution and victim surcharge;
- simplify procedures for civil enforcement of restitution orders and develop information material for victims on avenues to recover restitution;
- secure funding resources to conduct a client satisfaction survey which will ask victims of crime about their experiences and satisfaction with their involvement in the criminal justice system. The intent is to build in a sustainability component so that trends and gaps can be monitored over time.
- continue to develop and update public information materials to assist victims of crime, including launching of Victim Services Web site.

Staffing

Victim Services offices are located in Charlottetown and Summerside.

Personnel as of March 31, 2004	
Susan Maynard	Provincial Manager (temporary)
Jean Profit	Victim Services Worker, Western Region
Kellie Profitt	Victim Services Worker, Western Region (temporary)
Joy Coffin	Victim Services Worker, Eastern Region
Linda MacAulay	Assistant Victim Services Worker, Eastern Region (temporary)
Evelyn Marshall	Assistant Victim Services Worker, Charlottetown area
Dina DesRoches	Special Projects Officer, Charlottetown area (temporary)
Dianna Cudmore	Admin Support, Charlottetown Office
Carol Gallant	Admin Support, Summerside Office

Part IV

Criminal Injuries Compensation Program

Introduction

Criminal injuries compensation is the payment of money from public funds to compensate victims of crimes for pain and suffering and expenses resulting from injury or death caused by certain crimes. Criminal injuries compensation is a fund of last resort, i.e., other means of compensation or reimbursement are to be sought first.

Authority for Prince Edward Island's Criminal Injuries Compensation Program is contained in Part IV of the *Victims of Crime Act*, which was proclaimed in force September 30, 1989. Amendments to Part IV, which came into effect August 7, 1999, were designed to further simplify and speed up the process for assessing compensation claims.

The *Victims of Crime Act* is not retroactive; criminal injuries compensation can only be awarded in respect of an injury or death resulting from an act that occurred after September 30, 1989.

Values

Criminal injuries compensation is one means to take action on Principle (b) from the Statement of Principles in the *Victims of Crime Act*, i.e., "Victims should receive prompt and fair financial redress for the harm they have suffered."

In some Canadian provinces, criminal injuries compensation programs began in the 1970s. In 1974, the Law Reform Commission of Canada described the purpose of criminal injuries compensation, as follows:

- **Restitution** by offenders cannot deal with all cases in which there is a need to pay back the loss suffered by victims of crime. In some instances an offender may not be able or willing to pay restitution, or, having agreed to pay, may for various reasons be unable to pay all or part of the amount required. In another type of case, the offender will not be known or proceedings may not be undertaken because of lack of evidence. Accordingly, there is a need to consider a scheme of compensation from the state to supplement restitution from the offenders.
- **Compensation** for victims of crime can be a valuable tool in supporting the purposes of the criminal law. As suggested in the commission's working paper, The General Principles of Sentencing and Dispositions, the commission is of the view that one of the purposes of the criminal law is to protect core values. At the basis of any society is a shared trust, an implicit understanding that certain values will be respected. Some of these values are thought to be so important that they are protected

through various provisions of the criminal law. A violation of those values in some cases may not only be an injury to individual rights, but an injury as well to the feeling of trust in society generally. Thus, the law ought not only to show a concern for the victim's injury but also take concrete measures to restore the harm done to public trust and confidence. Public confidence and trust might also be reinforced by prompt police action or dispositions that demonstrate a serious concern for the wrong done. This concern, however, is directed against the offender. Compensation, on the other hand, is directed toward the victim and should not be lost sight of as another meaningful and visible demonstration of societal concern that criminal wrongs be righted.

Summary of the Legislation

In general, a claim for criminal injuries compensation may arise in the event of injury or death by an act that occurred in Prince Edward Island, and that injury or death must have directly resulted from the commission of a criminal offence prescribed in the regulations under the *Victims of Crime Act*. The applicant need not be a resident of Prince Edward Island.

The term "injury" is specifically defined in the *Victims of Crime Act* to mean actual bodily harm, including emotional trauma or pregnancy resulting from sexual assault, and mental or nervous shock. If a person suffers only property damage or loss as a result of a prescribed crime, he or she is not eligible for criminal injuries compensation. It is not necessary that anyone be prosecuted or convicted for the crime, but an award may be delayed pending the outcome of the criminal process. A determination of guilt is conclusive evidence that an offence has been committed.

The *Victims of Crime Act* also contains a Good Samaritan clause which provides that criminal injuries compensation may be awarded if the victim was assisting a police officer, or trying to stop or lawfully arrest someone committing or about to commit a crime. In the case of a Good Samaritan, the offence need not be included in the list prescribed by the Regulations of the *Victims of Crime Act*.

Eligible Applicants

The Attorney General may order criminal injuries compensation:

- to or for the benefit of the victim;
- to any person, in respect of financial loss suffered by or expenses incurred by that person as the result of the death or injury of the victim; or
- to any one or more of the dependants of the victim.

Contributory Behaviour/Unlawful Activity

If the victim is culpable in relation to the offence or at the time of the offence was engaged in unlawful activity, criminal injuries compensation may be reduced or denied. Any behaviour on the part of the victim that contributed to the injury or death must also be considered when the claim is being assessed.

Compensable Losses
Compensable losses include:

- reasonable expenses incurred or likely to be incurred as a result of the victim's injury or death;
- financial losses resulting from total, partial or temporary disability affecting the victim's capacity for work;
- financial loss to dependants resulting from the victim's death;
- pain and suffering;
- maintenance of a child born as a result of sexual assault;
- financial loss incurred in respect of grief or sorrow as a result of the victim's death; and
- other financial loss resulting from the victim's injury, and any other expense that, in the opinion of the minister or, in the case of a small claim, in the opinion of a designated person, it was reasonable to incur.

Calculation of the Award
The *Victims of Crime Act* directs that, when assessing an award for compensation, a designated person shall be guided by previous compensation awards made under the act and regulations and may consider awards based on similar legislation in other Canadian jurisdictions.

Deductions must be made for amounts recovered from the person who caused the injury, and any benefits received as a result of the incident under any federal or provincial statute other than benefits under a pension plan (e.g., employment insurance benefits, workers' compensation, social assistance payments, accident and disability insurance will be deducted, but Canada Pension Plan disability benefits **will not** be deducted). Benefits received as income replacement are not deducted from claims for pain and suffering.

Where a victim is injured as a result of a compensable crime, the designated person shall calculate the total loss and make deductions as noted above before applying the maximum limits.

Where a victim is killed as a result of a compensable crime, after deducting funeral or other expenses and after considering any contributory or unlawful behaviour as outlined above, the designated person shall divide the maximum award equally among all dependants who apply for compensation.

Maximum Award
The maximum amount payable to **all applicants** in respect of the injury or death of **one victim** is $15,000. The maximum amount payable to **all applicants** in respect of **one occurrence** (that is, one incident resulting in injury or death to more than one victim) is $30,000. The award cannot exceed these limits.

Time Limit
An application for criminal injuries compensation must be made within one year of the date of the injury or death, but the Attorney General may extend the time in special circumstances.

Right of Appeal
The decision of the Attorney General on a criminal injuries compensation claim may be appealed to a judge of the Supreme Court, Trial Division, on any question of law. An appeal must be filed within 30 days of the Attorney General's decision.

Variation of an Award
An award may be varied within two years of the date of the order upon the filing of an application for a variation by any interested person, or upon the Attorney General's own initiative. The applicant must provide all relevant documentation within one year of applying for the variation, or must state in writing why the documentation is not yet available.

Subrogation Rights
An applicant is required to notify the Attorney General of any civil action he or she initiates against the person who caused the injury or death.

Interim Compensation
Interim compensation may be paid to an applicant in respect of financial expenses related to the victim's injury if:

- the applicant is in immediate financial need, and
- it appears to the Attorney General or designated person that a criminal injuries compensation award will probably be granted.

Procedure

An applicant need not retain the services of a lawyer to make a criminal injuries compensation claim.

Victim Services staff are available to assist with completion of the application form. Once the application form is completed, Victim Services staff conduct an investigation and gather all relevant documentation. Victim Services staff then write a Case Analysis and forward it to the provincial manager of Victim Services.

The provincial manager and designated staff within the Legal Services Division, Office of the Attorney General, are "designated persons" responsible for determining eligibility and assessing the amount of awards.

For claims larger than $1,000, the designated person writes a report to the Attorney General with recommendations regarding eligibility and amount. The Attorney General then makes the decisions regarding these claims.

For small claims (up to $1,000) and for interim claims up to $1,000, the designated person can act on behalf of the Attorney General and make, or decline to make, an order.

Volume of Applications

During the fiscal year 2003/2004, 61 new applications for criminal injuries compensation were filed. One hundred and six applications were carried over from the previous year. Forty-three final decisions and eight interim decisions were made in 2003/2004.

The following statistical tables summarize the criminal injuries compensation program during 2003/2004:

Table II

Applications – Statistical Summary
April 1, 2003 to March 31, 2004

New applications filed	61
Applications carried over from last year	106
Variation applications	0
Appeals	0
Total	167
Decisions made	
Awards denied	4
Full awards granted	32
Interim awards	8
Reduced awards	6
Variation	1
Total	51
Withdrawn applications	1
Files carried forward to next fiscal year	123

Table III

Categories of Victims
(Based on Final and Interim Awards)
April 1, 2003 to March 31, 2004

Types of Victims	No.
General	16
Other family abuse	3
Sexual abuse	21
Wife abuse	9
Total	49

Table IV

Crimes Involved in Final Awards Granted
April 1, 2003 to March 31, 2004

Criminal Code Section	No. of Awards
151 (sexual interference)	2
155 (incest)	1
239 (attempt to commit murder)	1
266 (assualt)	10
267 (assault with weapon/causing bodily harm)	10
271 (sexual assault)	15
Total	39

Table V

Reasons for Reduced and/or Denied Awards
April 1, 2003 to March 31, 2004

Reason	Reduced	Denied
Crime not covered by regulations	0	1
Criminal offence not proven	0	2
Victim culpability/ contributory behaviour	6	0
Loss recovered from other sources	0	1
Total	6	4

Table VI

Location of Offences
(New Applications and Variation Applications)
April 1, 2003 to March 31, 2004

Police Jurisdiction	No. of Offences
Alberton RCMP	7
Charlottetown City Police	24
Charlottetown RCMP	26
Montague RCMP	2
Summerside City Police	1
Summerside RCMP	1
Souris RCMP	0
Total	61

Table VII

Compensation Ordered*
April 1, 2003 to March 31, 2004

Pain and suffering	$ 75,050
Expenses	5,699
Total Awarded	49

**Note: Compensation ordered in one fiscal year may be paid out in a different fiscal year, e.g., for dental expenses.*

Table VIII

Age and Gender of Victims
(Based on Final and Interim Awards)
April 1, 2003 to March 31, 2004

Age	No. of Victims
1 to 10	6
11 to 20	3
21 to 30	10
31 to 40	19
41 to 50	2
51 to 60	5
61 to 70	1
71 +	1
Total	47

Gender	No. of Victims
Female	34
Male	13
Total	47

Part V

Victim Assistance Fund

Victim Services
Summary of Revenue and Expenditures

	Budget Amount	Actual Year Ended March 31, 2004	Projects
Revenue			
Victim Surcharge			
• federal offences	34,000	41,421	
• provincial offences	140,000	96,900	
Community Service Work Option	0	0	
Donations/honorarium	0	0	
Restitution/civil suit reimbursement	0	0	
Victims of Crime Fund (Justice Canada)	63,400	72,147	72,147*
Total Revenue	237,400	210,468	72,147
Minus Project Revenue		- 72,147	
		138,321	

Note:
* The $71,147 revenue from the Victims of Crime Fund was for two Victim Services projects (Special Projects Officer and Victim Services Worker – Western Region).

Victim Services
Summary of Revenue and Expenditures

	Budget Amount	Actual Year Ended March 31, 2004	Projects
Expenditures			
Administration	7,900	11,276	998
Equipment	800	8,568	0
Materials/supplies	3,500	3,237	0
Professional/Contract Services (Research Contract and Mail Delivery)	500	392	0
Salaries/benefits	363,200	364,057	68,292
Travel	11,700	16,360	1,942
Criminal Injuries Compensation	100,000	101,677	0
Victim Assistants Fees	0	645	
Total Expenditures	487,600	506,212	71,232
Minus Project Expenditures		71,232	
		434,980	

Note:
All project expenditures were for the two Victim Services projects listed on the preceding page.

Accounting Procedures:
All revenues and expenditures related to Victim Services are recorded in the accounts of the province and included in the Public Accounts.